IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1155 OF 2004

The State of Maharashtra ..Appellant

V/s.

Tanuja Tajoddin Kazi & 3 ors. ..Respondents

Mrs.G.P.Mulekar APP for Appellant/State.

Coram : R.S.Mohite,J

Date :10th January, 2006.

PC

1. This is an appeal filed by the State impugning a judgment and order passed by the JMFC, Mangelwedha on 15.6.2004 acquitting the accused for offences punishable under Sections 324, 323, 504 r/w 34 of IPC. On perusal of the impugned judgment and order it is clear that the same is passed on cogent and acceptable reasons. Apart from the injured complainant there are 3 eye witnesses to the said incident. Of these, PW-2 Shahin is the wife of PW-1 Fayyaz Kazi. The incident in question is said to have taken place in front of the farm house of (PW 1). The accused are said to have come there and assaulted the complainant by means of fist & kick blows. Shahin had admitted in her evidence that only her husband had gone to the farm house. Her

presence is therefore, held to be doubtful. In so far as other 2 eye witnesses are concerned, they claimed that they were watching television programme in the farm house of the complainant at the time of the incident. The evidence indicates that there was no electric connection in the farm house. Shahin has admitted that they had not taken electric connection from the neighbours. These 2 witnesses are therefore, held to be got up witnesses. It has been further held that there is a delay in filing the FIR. The incident took place at 8.15 P.M. and the FIR was lodged at 3.30 P.M. on the next day. In the circumstances, not a fit case to interfere. Leave to file appeal is rejected and consequently appeal stands dismissed.

(R.S.Mohite,J)